

REMARKS

Claims 1-39, 58, and 59 are pending in the subject application.

Applicants have canceled claims 40-57, 60, and 61. In addition, Applicants have changed the Title. These changes do not introduce any new matter.

In light of Applicants' election of claims 1-39, 58, and 59 for prosecution on the merits, Applicants have canceled nonelected claims 40-57, 60, and 61. Applicants reserve the right to pursue nonelected claims 40-57, 60, and 61 in a timely filed divisional application.

In response to the objection to the Title, Applicants have changed the Title to "Graphics Data Generation Device and Graphics Data Generating Method." Accordingly, Applicants respectfully request that the objection to the Title be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 1-4, 6-9, 11-14, 16-18, 20-22, 24-26, 28-30, 32-34, 36-38, 58, and 59 under 35 U.S.C. § 102(e) as being anticipated by *Nakatsuka* (U.S. Patent No. US 6,229,625 B1). As will be explained below, the *Nakatsuka* reference does not disclose each and every feature of independent claims 1, 6, 11, 16, 20, 24, 28, 32, 36, 58, and 59.

Considering first independent claim 1, this claim defines a graphics data generating device. In contrast, the *Nakatsuka* reference discloses an image processing apparatus. The image processing apparatus shown in the *Nakatsuka* reference does not include a number of the features specified in claim 1, including, among other features, an imaging device configured to generate graphics data, a selection mechanism configured to enable a selection of a generation condition, and an acquisition mechanism configured to acquire graphics processing control parameters.

In support of the anticipation rejection of claim 1, the Examiner alleges that image reading device 10 shown in Figure 1 of the *Nakatsuka* reference constitutes an imaging device as specified in the claim. Applicants respectfully traverse the Examiner's characterization of the *Nakatsuka* reference relative to the claimed subject matter. It is clear that image reading device 10 is a separate device, e.g., a scanner or digital camera, that is independent from image processing apparatus 20. Moreover, image reading device 10 is incapable of specifying conditions for the image processing to be carried by the image processing apparatus, which, in accordance with conventional techniques, adjusts only parameters.

With regard to the Examiner's allegation that devices such as a keyboard constitute a selection mechanism as specified in claim 1, there is no disclosure in the *Nakatsuka* reference of selecting a generation condition, e.g., a shooting condition. Further, the *Nakatsuka* reference makes no mention of acquiring graphics processing control parameters based on the selected generation condition. The image processing apparatus of *Nakatsuka* does not have to output graphics data together with related graphics processing control parameters and, as such, the *Nakatsuka* reference provides no disclosure of a data output mechanism configured to relate generated graphics data to acquired graphics processing control parameters. In sum, the *Nakatsuka* reference does not place the public in possession of the subject matter defined in claim 1.

Accordingly, for at least the foregoing reasons, the *Nakatsuka* reference does not disclose each and every feature specified in independent claim 1.

Turning to independent claim 6, the Examiner states in the Office Action that "apparatus claim 6 is analyzed and rejected as previously discussed with respect to claim 1." Office Action at page 4. Applicants note that claim 6 is drafted in means-plus-function

format and that the Examiner has not provided the analysis required by 35 U.S.C. § 112, sixth paragraph. Accordingly, Applicants respectfully submit that the Examiner has failed to make a *prima facie* showing that the *Nakatsuka* reference anticipates the graphics data generating device specified in claim 6.

Considering next independent claim 11, the Examiner states in the Office Action that “method claim 11 is analyzed and rejected as previously discussed with respect to claim 1.” Office Action at page 4. The method for generating graphics data defined in claim 6 includes, among other operations, the operations of generating graphics data, designating a generation condition when the graphics data is generated, acquiring graphics processing control parameters for the designated generation condition, and relating the generated graphics data to the acquired graphics processing control parameters. For at least the same reasons discussed above in connection with claim 1, the *Nakatsuka* reference does not disclose each and every feature of the method defined in claim 11.

Shifting to independent claim 16, the Examiner alleges that the *Nakatsuka* reference discloses a graphics data generating device that includes an imaging device, a selection mechanism, and a processor as specified in this claim. Applicants’ remarks regarding the imaging device and selection mechanism set forth above in connection with claim 1 apply equally to claim 16. Further, regarding the processor, there is no disclosure in the *Nakatsuka* reference concerning the generation of a graphics processing control parameter set based on the generation condition. Thus, for at least this reason, the *Nakatsuka* reference does not disclose a processor as specified in claim 16.

Considering next independent claim 20, the Examiner states in the Office Action that “apparatus claim 20 is analyzed and rejected as previously discussed with respect to claim 16.” Office Action at page 5. Applicants note that claim 20 is drafted in means-plus-

function format and that the Examiner has not provided the analysis required by 35 U.S.C. § 112, sixth paragraph. Accordingly, Applicants respectfully submit that the Examiner has failed to make a *prima facie* showing that the *Nakatsuka* reference anticipates the graphics data generating device specified in claim 20.

Turning to independent claim 24, the Examiner states in the Office Action that “method claim 24 is analyzed and rejected as previously discussed with respect to claim 16.” Office Action at page 6. The method for generating graphics data defined in claim 24 includes the operations of generating graphics data, designating a generation condition when the graphics data is generated, generating a graphics processing control parameter set based on the generation condition, relating the graphics data to the graphics processing control parameter set, and outputting the related graphics data. For at least the same reasons discussed above in connection with claim 16, the *Nakatsuka* reference does not disclose each and every feature of the method defined in claim 24. Further, as noted above in connection with the discussion of claim 1, the image processing apparatus of *Nakatsuka* does not have to output graphics data together with related graphics processing control parameters. As such, the *Nakatsuka* reference provides no disclosure regarding the operations of relating the graphics data to the graphics processing control parameter set, and outputting the related graphics data.

Considering next independent claim 28, this claim defines a graphics data generating device that is similar to claim 1, but differs in that 1) the memory is configured to store a plurality of sets of graphics processing control information, with the graphics processing control information specifying a graphics processing control parameter set to be used for image processing of the graphics data under the generation condition, 2) the acquisition mechanism is configured to acquire the graphics processing control information for the

designated generation condition, and 3) the data output mechanism is configured to relate the generated graphics data to the acquired graphics processing control information. The *Nakatsuka* reference does not disclose each and every feature of claim 28 for at least the same reasons set forth above regarding claim 1.

Shifting to independent claim 32, the Examiner states in the Office Action that “apparatus claim 32 is analyzed and rejected as previously discussed with respect to claim 28.” Office Action at page 7. Applicants note that claim 32 is drafted in means-plus-function format and that the Examiner has not provided the analysis required by 35 U.S.C. § 112, sixth paragraph. Accordingly, Applicants respectfully submit that the Examiner has failed to make a *prima facie* showing that the *Nakatsuka* reference anticipates the graphics data generating device specified in claim 32.

Considering next independent claim 36, the Examiner states in the Office Action that “method claim 36 is analyzed and rejected as previously discussed with respect to claim 28.” Office Action at page 7. The method for generating graphics data specified in claim 36 is similar to the method defined in claim 11, but differs for the reasons set forth above in connection with the discussion of claim 28. The *Nakatsuka* reference does not disclose each and every feature of the method defined in claim 36 for at least the same reasons set forth above regarding claims 1 and 11.

Turning to independent claim 58, this claim defines a computer-executable program for generating graphics data that implements functions similar to the method operations specified in method claim 11. The *Nakatsuka* reference does not disclose each and every feature of the computer-executable program defined in claim 58 for at least the same reasons set forth above regarding claims 1 and 11.

Finally, with regard to independent claim 59, this claim defines a computer-executable program for generating graphics data that implements functions similar to the method operations specified in method claim 36. The *Nakatsuka* reference does not disclose each and every feature of the computer-executable program defined in claim 59 for at least the same reasons set forth above regarding claims 1, 11, and 36.

Accordingly, for at least the foregoing reasons, independent claims 1, 6, 11, 16, 20, 24, 28, 32, 36, 58, and 59 are patentable under 35 U.S.C. § 102(e) over *Nakatsuka*. The dependent claims are likewise patentable under 35 U.S.C. § 102(e) over *Nakatsuka* for at least the same reasons set forth above regarding the applicable independent claim.

Applicants respectfully request reconsideration of the rejection of claims 5, 10, 15, 19, 23, 27, 31, 35, and 39 under 35 U.S.C. § 103(a) as being unpatentable over *Nakatsuka* in view of *Takemura* (U.S. Patent Publication No. US 2003/0193598 A1). Each of the claims in this obviousness rejection depends from one of independent claims 1, 6, 11, 16, 20, 24, 28, 32, and 36. The deficiencies of the *Nakatsuka* reference relative to the above-listed independent claims are discussed above in connection with the anticipation rejection. The *Takemura* reference does not cure the above-discussed deficiencies of the *Nakatsuka* reference relative to the above-listed independent claims. Accordingly, claims 5, 10, 15, 19, 23, 27, 31, 35, and 39 are patentable under 35 U.S.C. § 103(a) for at least the reason that they depend from one of the above-listed independent claims.

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 1-39, 58, and 59, and submit that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any fees are due in connection with the filing of

U.S. Application No. 10/053,477
Amendment dated December 20, 2005
Response to Office Action dated September 22, 2005

this paper, then the Commissioner is authorized to charge such fees to Deposit Account No.

50-0805 (Order No. MIPFP001).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP

A handwritten signature in black ink, appearing to read 'Peter B. Martine', with a long horizontal stroke extending to the right.

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